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IN THE MATTER OF THE APPLICATION  
OF VALENCIA WATER COMPANY—  
TOWN DIVISION FOR THE  
ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES  
FOR UTILITY SERVICE DESIGNED TO  
REALIZE A REASONABLE RATE OF  
RETURN ON THE FAIR VALUE OF ITS  
PROPERTY THROUGHOUT THE STATE  
OF ARIZONA.

DOCKET NO. W-01212A-12-0309

IN THE MATTER OF THE APPLICATION  
OF GLOBAL WATER-PALO VERDE  
UTILITIES COMPANY FOR THE  
ESTABLISHMENT OF JUST AND  
REASONABLE RATES AND CHARGES  
FOR UTILITY SERVICE DESIGNED TO  
REALIZE A REASONABLE RATE OF  
RETURN ON THE FAIR VALUE OF ITS  
PROPERTY THROUGHOUT THE STATE  
OF ARIZONA.

DOCKET NO. SW-20445A-12-0310

IN THE MATTER OF THE APPLICATION  
OF WATER UTILITY OF NORTHERN  
SCOTTSDALE FOR APPROVAL OF A  
RATE INCREASE.

DOCKET NO. W-03720A-12-0311

IN THE MATTER OF APPLICATION OF  
WATER UTILITY OF GREATER  
TONOPAH FOR THE ESTABLISHMENT  
OF JUST AND REASONABLE RATES AND  
CHARGES FOR UTILITY SERVICE  
DESIGNED TO REALIZE A REASONABLE  
RATE OF RETURN ON THE FAIR VALUE  
OF ITS PROPERTY THROUGHOUT THE  
STATE OF ARIZONA.

DOCKET NO. W-02450A-12-0312

1 IN THE MATTER OF THE APPLICATION  
2 OF VALENCIA WATER COMPANY—  
3 GREATER BUCKEYE DIVISION FOR THE  
4 ESTABLISHMENT OF JUST AND  
5 REASONABLE RATES AND CHARGES  
6 FOR UTILITY SERVICE DESIGNED TO  
7 REALIZE A REASONABLE RATE OF  
8 RETURN ON THE FAIR VALUE OF ITS  
9 PROPERTY THROUGHOUT THE STATE  
10 OF ARIZONA.

**DOCKET NO. W-02451A-12-0313**

7 IN THE MATTER OF THE APPLICATION  
8 OF GLOBAL WATER—SANTA CRUZ  
9 WATER COMPANY FOR THE  
10 ESTABLISHMENT OF JUST AND  
11 REASONABLE RATES AND CHARGES  
12 FOR UTILITY SERVICE DESIGNED TO  
13 REALIZE A REASONABLE RATE OF  
14 RETURN ON THE FAIR VALUE OF ITS  
15 PROPERTY THROUGHOUT THE STATE  
16 OF ARIZONA.

**DOCKET NO. W-20446A-12-0314**

12 IN THE MATTER OF THE APPLICATION  
13 OF WILLOW VALLEY WATER  
14 COMPANY FOR THE ESTABLISHMENT  
15 OF JUST AND REASONABLE RATES AND  
16 CHARGES FOR UTILITY SERVICE  
17 DESIGNED TO REALIZE A REASONABLE  
18 RATE OF RETURN ON THE FAIR VALUE  
19 OF ITS PROPERTY THROUGHOUT THE  
20 STATE OF ARIZONA.

**DOCKET NO. W-01732A-12-0315**

21 **REPLY BRIEF OF NEW WORLD PROPERTIES, INC.,**  
22 **ON BEHALF OF FIRST AMERICAN TITLE COMPANY TRUST NO. 8559**

23 **October 31, 2013**  
24  
25  
26  
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## TABLE OF CONTENTS

	<u>Page</u>
I. RESPONSE TO STAFF'S INITIAL BRIEF .....	1
A. The Settlement Agreement Fails to Resolve All Issues Regarding ICFAs.....	1
1. To Ensure an Equitable and Level Playing Field, the Commission Should Condition Approval of the Settlement Agreement on the Elimination of the CPI Adjuster on Landowner Fees Treated as HUFs under the ICFAs .....	1
2. The Commission Should Establish Appropriate Protections for Landowner Fees Received by Global Water Resources under ICFAs which Exceed the Amount of the Applicable HUFs and which Are Necessary to Construct Utility Infrastructure.....	7
B. The Settlement Agreement Restores the Balance Sheet of Global Water Resources While Leaving NWP and Other Developers with ICFAs at a Competitive Disadvantage vis-à-vis Developers Without ICFAs .....	8
C. The Long-Term Impact of De-Imputing \$58,245,656 of CIAC on Rate Payers Was Not Analyzed and Is Not Known .....	11
D. A Longer Phase-in of the Rate Increase for Customers of Water Utility of Greater Tonopah is Necessary to Avoid Rate Shock .....	14
II. RESPONSE TO GLOBAL'S POST-HEARING BRIEF .....	15
A. The Settlement Agreement Fails to Resolve All of the ICFA Issues.....	15
B. The 96% Rate Increase for WUGT Will Cause Rate Shock Without a Longer Phase-In .....	17
III. RESPONSE TO RUCO CLOSING BRIEF.....	19
IV. CONCLUSION .....	20

1 New World Properties, Inc., (“NWP”), on behalf of First American Title Company Trust  
2 No. 8559, hereby files its Reply Brief in the above-captioned rate case. NWP joins in the Initial  
3 Closing Brief of Sierra Negra Ranch, LLC and Sierra Negra Management, LLC (collectively,  
4 “SNR”) filed October 18, 2013, and the Reply Brief of SNR filed of even date herewith.

5 **I. RESPONSE TO STAFF’S INITIAL BRIEF.**

6 **A. The Settlement Agreement Fails to Resolve All Issues Regarding ICFAs.**

7 Staff asserts that the Settlement Agreement “resolves issues attendant to the Infrastructure  
8 Coordination and Financing Agreements.”<sup>1</sup> However, while the Settlement Agreement resolves  
9 certain issues pertaining to the Infrastructure Coordination and Financing Agreements (“ICFAs”),  
10 it does not resolve the two critical issues raised by NWP. First, the Settlement Agreement leaves  
11 in place a consumer price index adjustor (“CPI Adjustor”) that applies both to ICFA landowner  
12 fees that will be retained by Global Water Resources and to ICFA landowner fees that will be  
13 treated as hook-up fees (“HUFs”). The failure to eliminate the application of the CPI Adjustor to  
14 funds that will be treated as HUFs under the ICFAs discriminates against NWP, SNR and every  
15 other developer with an ICFA as compared to developers that do not have ICFAs. Moreover, the  
16 increased fees attributable to the CPI Adjustor expose ratepayers to unknown future rate impacts  
17 as the fees find their way into rate base as equity pursuant to Section 6.4.3 of the Settlement  
18 Agreement.

19 Second, the Settlement Agreement fails to provide protection for ICFA landowner fees  
20 paid by NWP and every other developer under the ICFAs which exceed the amount treated as  
21 HUFs but which are necessary to fund construction of the utility infrastructure that Global Water  
22 Resources is obligated to construct under the ICFAs.

23 **1. To Ensure a Level and Equitable Playing Field, the**  
24 **Commission Should Condition Approval of the Settlement**  
25 **Agreement on the Elimination of the CPI Adjustor on**  
26 **Landowner Fees Treated as HUFs under the ICFAs.**

27 While NWP and SNR are the only developers with ICFAs that intervened in these  
28 consolidated rate cases, the Commission should bear in mind that Global Water Resources has

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<sup>1</sup> Staff’s Initial Brief at 2, lines 15-16.

1 entered into 172 ICFAs.<sup>2</sup> Section 6.4.1 of the Settlement Agreement fundamentally changes the  
2 treatment of the landowner fees received by Global Water Resources under each one of the 172  
3 ICFAs by recharacterizing a large portion of the fees as HUFs. Because Section 6.2.1 of the  
4 Settlement Agreement prohibits Global Water Resources and any of its affiliates from entering  
5 into new ICFAs, all off-site utility infrastructure that is required to serve new developments will  
6 now be constructed using HUFs, debt or equity. As discussed in NWP's Initial Closing Brief,  
7 witnesses Ron Fleming, Pat Quinn and Steve Olea each testified at the hearing that they are  
8 unaware of any HUF approved by the Commission which includes a CPI Adjuster.<sup>3</sup> Moreover,  
9 there is no provision in any of the HUF tariffs attached as Attachment C to the Settlement  
10 Agreement which establishes a CPI Adjustor. However, Global<sup>4</sup> witness Fleming acknowledges  
11 that the CPI Adjustor in the ICFAs "pertains to the HUF ... component as well."<sup>5</sup>

12 The Settlement Agreement signed by the signing parties establishes HUFs for each of the  
13 various Global utilities. The application of a CPI Adjustor to all landowner fees payable under  
14 the ICFAs and the lack of a CPI Adjustor on the HUFs that will now be payable by developers  
15 that do not have ICFAs creates an unlevel playing field that competitively disadvantages  
16 developers with ICFAs. By way of illustration, Mr. Fleming acknowledged that in the case of  
17 NWP, the CPI Adjustor has already added an additional \$449.43 per equivalent dwelling unit  
18 ("EDU") to the \$5,500-per-EDU landowner payment, or approximately \$1.685 million in total  
19 based on 3,750 EDUs as of the date of the hearing.<sup>6</sup> Furthermore, that \$1.685 million continues  
20 to increase until NWP completes its payments under the ICFA. Developers who are not parties to  
21 an ICFA (and there will be no new ICFAs after approval of the Settlement Agreement) will now  
22 pay a HUF with no CPI Adjustor. This is an unfair and discriminatory result which is directly  
23 attributable to the Settlement Agreement. NWP witness Rick Jellies explained the impact that the  
24 disparate treatment regarding the CPI Adjustor will have on NWP:

25 <sup>2</sup> Hearing Transcript Vol. I at p. 86, lines 9-11.

26 <sup>3</sup> Initial Closing Brief of New World Properties at 8, lines 6-10.

27 <sup>4</sup> As used herein, the term "Global" refers collectively to Global Water Resources, Inc., its utility  
affiliates and non-utility affiliates.

28 <sup>5</sup> Hearing Transcript Vol. I at 100, lines 22-24.

<sup>6</sup> Hearing Transcript Vol. I at 125-127.

1 My biggest concern is the fact that the settlement agreement sets up, like I said, a  
2 class of competitor that does not have a CPI adjuster. Given -- like I testified on  
3 Friday, I would gladly live up to my agreement if the playing field were to remain  
4 unchanged. Okay? But if you change a little piece, then you need to, from my  
5 perspective, look at the whole thing.<sup>7</sup>

6 The Settlement Agreement does change the playing field. What's more, the competitive  
7 disadvantage to NWP is even more egregious given that NWP actually funded the acquisition of  
8 the Water Utility of Greater Tonopah ("WUGT") by Global Water Resources with the payment of  
9 landowner fees under its ICFA. That acquisition will clearly benefit developers without ICFAs  
10 which develop within the very large service area of WUGT, as well as the customers who will  
11 live in those developments. Since developers without ICFAs do not have a CPI Adjustor to  
12 worry about, NWP suffers a competitive disadvantage against the developers that are benefitting  
13 from the very acquisition that NWP funded.

14 Furthermore, Staff witness James Armstrong testified that Global Water Resources "could  
15 be entitled to receive (over several decades) as much as \$1.476 billion of ICFA fees under the  
16 provisions of these existing agreements."<sup>8</sup> If a CPI Adjustor is charged on the HUF portion of  
17 that \$1.476 billion dollars in fees, it will generate tens of millions in additional payments to  
18 Global Water Resources. If Global Water Resources infuses those additional payments into its  
19 regulated utilities as equity under Section 6.4.3 of the Settlement Agreement, which requires that  
20 payments be used "only in accordance with the terms of the applicable ICFA" (*i.e.*, to fund and  
21 finance the construction of utility infrastructure), together with the payments generated by the  
22 CPI Adjustor as applied to the 30% "Global Parent portion" under Section 6.4.4 of the Settlement  
23 Agreement, the impact on future rates will be very considerable. Notwithstanding, there has been  
24 no effort by Staff, RUCO or Global Water Resources to calculate or analyze the impact and effect  
25 on ratepayers.

26 Staff asserts that the "Commission cannot change or modify a contract that was  
27 voluntarily entered into between two private parties."<sup>9</sup> That statement, taken in a vacuum, would

28 <sup>7</sup> Hearing Transcript Vol. III at 364, lines 3-9.

<sup>8</sup> Hearing Exhibit S-2 (Direct Testimony of James Armstrong) at 3, lines 3-8; *see also* Hearing Exhibit A-32 (Ullmann Report).

<sup>9</sup> Staff's Initial Brief at 26, lines 7-8.

1 appear to be true at first blush. However, it belies the facts and circumstances of this case. First,  
2 Global Water Resources has unequivocally submitted the ICFAs to the jurisdiction of the  
3 Commission as demonstrated by the following exchange between counsel for NWP and Global  
4 witness Paul Walker:

5 Q. [By Mr. Hays] Okay. If you could turn to the next page, line 16 and 17,  
6 Mr. Armstrong says: Global Parent [*i.e.*, Global Water  
7 Resources] has never contended that ICFAs are  
8 nonjurisdictional to the ACC. Do you believe the  
9 Commission has jurisdiction over the ICFAs?

10 A. [By Mr. Walker] I think the Commission has jurisdiction over the Global  
11 Utilities and I think it has sort of an implied jurisdiction  
12 over Global Parent. And we have always said that we are  
13 not going to argue that the ICFAs are nonjurisdictional  
14 because we understand there is significant concern and  
15 interest in them from the Commission. So we weren't  
16 going to dispute whether they had legal jurisdiction or  
17 not.<sup>10</sup>

18 When Mr. Walker testified that Global Water Resources is not going to dispute whether  
19 the Commission has legal jurisdiction over the ICFAs, he conceded that the Commission does  
20 have jurisdiction over the ICFAs. It is literally that simple, and Staff completely disregards this  
21 critical concession. Because Global Water Resources has conceded jurisdiction, the cases cited  
22 by Staff in its Initial Brief are simply not relevant.

23 Second, it is also relevant that Staff requested Global Water Resources to intervene in  
24 these consolidated rate case dockets and Global Water Resources did, in fact, intervene as a party,  
25 thereby submitting itself to the Commission's jurisdiction. It should also be noted that Global  
26 Water Resources is itself a party to the Settlement Agreement, signing on page 16 of that  
27 document.<sup>11</sup> Thus, both the ICFAs and Global Water Resources are subject to the Commission's  
28 jurisdiction in these consolidated rate cases.

Ironically, even though Staff argues that ICFAs are voluntary agreements between private  
parties, Staff has no problem recharacterizing the landowner fees received by Global Water  
Resources under the ICFAs as HUFs or contributions in aid of construction, notwithstanding the

<sup>10</sup> Hearing Transcript Vol. IV at pp. 574-575 (emphasis added).

<sup>11</sup> Hearing Exhibit A-17 at p. 16.

1 fact that Recital H of NWP's ICFA (and likely all other ICFAs) specifically provides that such  
2 payments shall not be considered contributions:

3 Nothing in this Agreement should be construed as a payment of principal, a  
4 contribution or advance to the utilities and will bear no repayment of any kind or  
5 any nature in the future, unless otherwise agreed by the Parties, or except as  
6 otherwise required in this Agreement.<sup>12</sup>

7 Likewise, there are many other provisions of the Settlement Agreement which directly  
8 impose obligations upon Global Water Resources, including the following:

- 9 • Staff and RUCO "reserve the right to monitor Global's<sup>13</sup> compliance with this  
10 Settlement Agreement and review all ICFA related transactions in future rate  
11 applications that Global files, and take appropriate steps, if necessary, to ensure the  
12 continued resolution of the issues regarding ICFAs as set forth in this Agreement."  
13 (Section 6.1.2)
- 14 • Global Water Resources cannot "enter into any new ICFAs or any other ICFA type  
15 agreements." (Section 6.2.1)
- 16 • Global Water Resources cannot amend any existing ICFA to "increase the dollar  
17 amount of the ICFA funds to be paid to Global [Water Resources] or any of its  
18 affiliates." (Section 6.2.1)
- 19 • "Any associated funds or infrastructure (or land associated with the infrastructure  
20 conveyed to Global [which includes Global Water Resources]) used to provide  
21 water or wastewater service will be segregated to or owned by the Global Water  
22 and Wastewater Utilities, Hassayampa, Picacho Water or Picacho Utilities.  
23 (Section 6.2.3)
- 24 • A portion of the funds received by Global Water Resources "will be paid to the  
25 associated utility as a hook-up fee ("HUF") to be established in accordance with  
26 this Agreement...." (Section 6.4.1)
- 27 • Global Water Resources "will agree to accept separate checks for the ICFA fees  
28 owed...." (Section 6.4.2)
- Global Water Resources "is prohibited from using HUF monies for any purpose."  
(Section 6.4.2.1)
- Global Water Resources "shall use the HUF monies solely for the purposes set  
forth in the Commission approved HUF tariffs." (Section 6.4.2.1)

12 NWP-4 (Jellies Direct Testimony), Exhibit A (NWP ICFA) at 5.

13 In the Settlement Agreement, Global Water Resources, Inc., is defined as "Global Parent." Global Parent is included in the definition of the "Global Intervenors." The Global Intervenors are included in the broader definition of "Global."

- 1       •     The Global Water Resources “portion (ICFA Fee minus HUFs) is to be used only  
2             in accordance with the terms of the applicable ICFA.” (Section 6.4.3)
- 3       •     Global Water Resources “shall be responsible for ensuring that the entire HUF is  
4             paid no later than the time the ICFA payment is received for: (1) final plat, (2) the  
5             start work date, or (3) the date required by the HUF tariffs, whichever is earliest.”  
6             (Section 6.4.4)

7       Notwithstanding these obligations imposed directly upon Global Water Resources under  
8       the Settlement Agreement—including requiring Global Water Resources to hand over funds  
9       received under the ICFAs to its affiliated utilities and prohibiting Global Water Resources from  
10      entering into new ICFAs—Staff still argues that the Commission lacks jurisdiction to require that  
11      Global Water Resources agree to eliminate the CPI Adjustor as it applies to landowner fees that  
12      are treated as HUFs under the Settlement Agreement. Clearly, however, the Commission can  
13      require Global Water Resources to further modify the terms of the ICFAs, including NWP’s  
14      ICFA, as a condition of approving the Settlement Agreement, and it should do so in this case.

15      Section X of the Settlement Agreement discusses the Commission’s evaluation of the  
16      Settlement Agreement, stating in part as follows:

17           10.2   The Signatories recognize that Staff does not have the power to bind the  
18               Commission. For purposes of proposing a settlement agreement, Staff acts in the  
19               same manner as any party to a Commission proceeding.

20           10.3   This Agreement will serve as a procedural device by which the Signatories will  
21               submit their proposed settlement of the Global Rate Dockets to the Commission.

22           10.4   The Signatories recognize that the Commission will independently consider and  
23               evaluate the terms of this Agreement. ...<sup>14</sup>

24      The Settlement Agreement is clear that it does not bind the Commission. Further, no  
25      party can dispute that the Commission is free to impose additional conditions upon the approval  
26      of the Settlement Agreement if the Commission determines that the public interest requires  
27      additional conditions. With regard to NWP and the other developers who are parties to ICFAs,  
28      the Settlement Agreement places those developers at a permanent competitive disadvantage to  
29      those developers that have not signed ICFAs because the ICFAs contain a CPI Adjustor which  
30      effectively increases the HUFs that are paid by the developers under ICFAs. This discrimination

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<sup>14</sup> Hearing Exhibit A-17 at 12.

1 harms the developers with ICFAs and it harms the customers who will reside within their  
2 developments.

3 In addition, as discussed above, the CPI Adjustor will bring in potentially tens of millions  
4 of dollars of additional revenue to Global Water Resources which will no doubt makes its way in  
5 some substantial amount into its utility affiliates as equity. Staff has done no analysis regarding  
6 the impact of the additional revenues received by Global Water Resources as a result of the CPI  
7 Adjustor on the future rates of customers.

8 For all of these reasons, NWP requests that the Commission condition approval of the  
9 Settlement Agreement upon the modification of the ICFAs to eliminate the application of the CPI  
10 Adjustor to that portion of the landowner fees that are recharacterized as HUFs.

11 **2. The Commission Should Establish Appropriate Protections for**  
12 **Landowner Fees Received by Global Water Resources under**  
13 **ICFAs which Exceed the Amount of the Applicable HUFs and**  
14 **which Are Necessary to Construct Utility Infrastructure.**

15 Staff states that “[d]uring the hearing, the Company further agreed to file an annual  
16 affidavit attesting to the Company’s compliance in the prior year with all provisions of the  
17 [Settlement] Agreement for which there is a compliance obligation.”<sup>15</sup> This commitment is very  
18 important and would presumably apply to each of the obligations of Global Water Resources  
19 listed above in Section I.A.1. However, NWP submits that Global Water Resources should be  
20 required to segregate funds in a separate bank account that it receives from landowners under  
21 ICFAs which (i) exceed the amount of the applicable HUFs, and (ii) are necessary for the  
22 construction of the utility plant required under the various ICFAs.

23 Requiring a segregated account for all ICFA monies is appropriate and necessary given  
24 the risks articulated by Staff witness Jim Armstrong, as discussed in NWP’s Initial Closing  
25 Brief,<sup>16</sup> and the past history of Global Water Resources. Thus, NWP urges the Commission to  
26 require, as a condition of approving the Settlement Agreement, that Global Water Resources be  
27 required to segregate in separate bank accounts all ICFA monies and provide an annual report to

28 <sup>15</sup> Staff’s Initial Brief at 15, lines 12-15 (*citing* Hearing Transcript Vol. III at 517).

<sup>16</sup> Initial Closing Brief of NWP at 13-16.

1 Utilities Division Staff of the cash flows into and out of such accounts, together with such other  
2 information as Staff may reasonably request.

3 **B. The Settlement Agreement Restores the Balance Sheet of Global Water**  
4 **Resources While Leaving NWP and Other Developers with ICFAs at a**  
5 **Competitive Disadvantage vis-à-vis Developers Without ICFAs.**

6 Staff states that “it is important to remember that the ICFAs are voluntary agreements”  
7 and “[t]here was not and is not any Commission requirement that developers must enter into  
8 ICFAs with Global.”<sup>17</sup> In essence, Staff is saying that NWP made a deal with Global Water  
9 Resources of its own free will and must now live with the consequences of that deal, which as it  
10 turns out, is a competitive disadvantage *vis-à-vis* developers without ICFAs. However, the same  
11 tough love does not apply to Global Water Resources insofar as Staff is concerned. Staff states  
12 that “the overriding reason for the Company filing the [rate] applications relates to the  
13 Commission’s ratemaking treatment of the monies received pursuant to the ICFAs.”<sup>18</sup> Staff  
14 continues, “[t]he largest impact to rate base related to the regulatory treatment of the payments  
15 the Company received pursuant to the ICFAs.”<sup>19</sup> Staff then explains that the Settlement  
16 Agreement in this case “is designed to restore Global Parent’s balance sheet while, at the same  
17 time, not unduly burdening the customers of the Global Applicants.”<sup>20</sup> Thus, while NWP must  
18 live with the consequences of its decision to enter into an ICFA, Global Water Resources gets  
19 what amounts to a colossal “bailout” from Staff in the form of a restored balance sheet.

20 Moreover, Staff’s assertion that the ICFAs are voluntary agreements is reminiscent of a  
21 recent statement by a national political leader that paying one’s federal income taxes is voluntary.  
22 The evidence in this case clearly shows that NWP had no practical alternative to signing an ICFA  
23 with Global Water Resources if it wanted to develop its property. Staff argues that “NWP  
24 acknowledged they had options and ultimately chose to work with Global.”<sup>21</sup> However, while it  
25 is true that NWP considered options such as working with the prior owners of West Maricopa

26 <sup>17</sup> Staff’s Initial Brief at 21, lines 7-9.

27 <sup>18</sup> Staff’s Initial Brief at 5, lines 8-10.

28 <sup>19</sup> Staff’s Initial Brief at 6, lines 13-14.

<sup>20</sup> Staff’s Initial Brief at 9, lines 18-19.

<sup>21</sup> Staff’s Initial Brief at 27, lines 7-8.

1 Combine for water service, working with Balterra Sewer Corp. for sewer service, forming its own  
2 water and sewer utilities, or contacting other utility providers, Mr. Jellies explained that none of  
3 these options met the objectives of consolidation and regionalization that were mandated by  
4 Maricopa County and the Commission:

5 Q. [By Mr. Crockett] In his testimony, Mr. Fleming asserts that New World  
6 Properties had other choices besides Global for water and  
7 wastewater services to the Copperleaf property. Is this  
8 true?

9 A. [By Mr. Jellies] Factually, factually true, in practice no. Let me explain.  
10 We went to a number of meetings out there. I met with  
11 Supervisor Max Wilson's chief of staff. I met with  
12 Supervisor Mary Rose Wilcox. We met with Steve Borscht  
13 from Maricopa Environmental Services, Wes Shonerd from  
14 Environmental Services. And we were told the same thing.  
15 And we were actually provided at one time with a docket  
16 that came out of the Corporation Commission that talked  
17 about the need to regionalize and consolidate utilities. And  
18 everybody beat the same drum and said we must, if we  
19 wanted to develop in this new and emerging area, come up  
20 with both a regional and consolidated approach to utilities.  
21 And so we did weigh a number of various options out there  
22 and determined that the only provider that was in the area  
23 at the time that had an interest in acquiring the water  
24 company was Global.<sup>22</sup>

25 Staff also argues that "Mr. Jellies indicated he has familiarity with the traditional tools of  
26 receiving service from a water utility that is regulated by the Commission."<sup>23</sup> However, Mr.  
27 Jellies testified—and his testimony is uncontroverted by any witness or evidence in this case—  
28 that Global Water Resources never offered NWP the option of a traditional main extension  
agreement:

Q. [By Mr. Crockett] We talked earlier about the options that were available to  
Copperleaf or to New World Properties. Was New World  
Properties ever offered the option of a conventional main  
extension agreement with Global to provide services to the  
property, a master utility agreement, main extension  
agreement type of deal?

<sup>22</sup> Hearing Transcript Vol. II at 293-294.

<sup>23</sup> Staff's Initial Brief at 27, lines 8-10.

1 A. [By Mr. Jellies] No. We were told specifically you must enter into the  
2 ICFA because of the need to acquire Western Maricopa  
Combine.

3 Q. [By Mr. Crockett] So that was not an option that was on the table insofar as  
4 you were concerned?

5 A. [By Mr. Jellies] That was absolutely not an option.<sup>24</sup>

6 As discussed above, the application of a CPI Adjustor under the ICFAs to landowner fees  
7 characterized as HUFs under the Settlement Agreement and the lack of a CPI Adjustor on HUFs  
8 payable by developers without ICFAs creates an unlevel playing field that competitively  
9 disadvantages developers with ICFAs. This unfair and discriminatory result is directly  
10 attributable to the Settlement Agreement. While the Settlement Agreement bestows a tremendous  
11 benefit upon Global Water Resources in the form of a restored balance sheet, it fails to address  
12 the competitive disadvantage that will beset NWP and the other developers with ICFAs. This  
13 failure could easily be remedied by requiring the elimination of the CPI Adjustor as it applies to  
14 landowner fees that are recharacterized as HUFs under the Settlement Agreement. Without such a  
15 remedy, approval of the Settlement Agreement is not in the public interest.

16 Staff states that “the parties do agree that the Commission has been grappling with the  
17 ICFAs since 2006, and that it is in the best interest of all parties involved to reach a resolution on  
18 the past, present and future treatment of ICFAs.”<sup>25</sup> NWP agrees. However, the problem is that  
19 the Settlement Agreement does not include all parties involved because it does not address the  
20 legitimate issues raised by NWP and SNR.

21 Based upon the testimony of Staff, it is not unfair to describe the ICFAs as a failed  
22 experiment by Global Water Resources that was never authorized by the Commission. After  
23 executing many ICFAs, Staff states that “the Commission ... directed Global, Staff and other  
24 interested stakeholders to commence a generic investigation and to hold workshops to address  
25 whether ICFAs, if property segregated and accounted for, would be appropriate for use in  
26 financing the acquisition of troubled water companies and to cover carrying costs associated with

27 <sup>24</sup> Hearing Transcript Vol. II at 314-315.

28 <sup>25</sup> Staff’s Initial Brief at 14, lines 19-21 (emphasis added).

1 unused regional infrastructure.”<sup>26</sup> In prohibiting Global Water Resources and its affiliates from  
2 entering into any new ICFA’s under the Settlement Agreement, Staff has definitively answered the  
3 Commission’s question in the negative: ICFA’s are not an appropriate vehicle for acquiring  
4 troubled water companies or covering the carrying costs of unused regional infrastructure. NWP  
5 is willing to live with its decision to enter into an ICFA, but it should not be forced to suffer a  
6 competitive disadvantage as compared to developers without ICFA’s while Global Water  
7 Resources is the beneficiary of a “restored balance sheet.”<sup>27</sup>

8 Staff also asserts that “SNR and NWP are receiving more pursuant to the ICFA than they  
9 would with just a HUF.”<sup>28</sup> However, the administrative law judge correctly hit upon the fact that  
10 the obligations of Global Water Resources under the ICFA’s are essentially those of a regulated  
11 utility company, as set forth in the following exchange with Utilities Division Director Steve  
12 Olea:

13 Q. [By Judge Nodes] Right. But those are, the actions or the activities that the  
14 parent agreed to undertake, weren't they essentially acting  
15 in the capacity of a utility company? And isn't that one of  
Staff's primary concerns, at least up until this point?

16 A. [By Mr. Olea] That's correct. And that's, I think, if you look at Mr.  
17 Armstrong's testimony, he talked about the blurred lines.  
18 What we believe the settlement agreement does is unblur  
19 the line, make it a real, definite demarcation. The parent  
company, you do what you do. Utility, you do what you  
do. The parent company, don't be doing utility stuff.  
That's why no more ICFA's.

20 Q. [By Judge Nodes] On a going forward basis.

21 A. [By Mr. Olea] Correct.<sup>29</sup>

22 The Settlement Agreement provides generous benefits to Global Water Resources and its  
23 utility affiliates in the form of restorations to rate base. However, the Settlement Agreement  
24 leaves NWP and the other developers with ICFA’s at a competitive disadvantage as compared to  
25 developers without ICFA’s and affects ratepayers to a degree as yet unknown. For the reasons set  
26

27 <sup>26</sup> Staff’s Initial Brief at 13, lines 17-21 (*citing* Decision 71878 at 84).

28 <sup>27</sup> Staff’s Initial Brief at 9, line 18.

29 <sup>28</sup> Staff’s Initial Brief at 26, lines 24-25.

<sup>29</sup> Hearing Transcript Vol. IV at 729-730 (emphasis added).

1 forth herein, the Commission should condition approval of the Settlement Agreement upon the  
2 elimination of the CPI Adjustor as it applies to landowner fees recharacterized as HUFs under the  
3 Settlement Agreement.

4 C. **The Long-Term Impact of De-Imputing \$58,245,656 of CIAC on Rate Payers**  
5 **Was Not Analyzed and Is Not Known.**

6 Under Section 6.3 of the Settlement Agreement, \$58,245,656 of CIAC (net of  
7 amortization) imputed under Commission Decision 71878 will be reversed and restored to rate  
8 base.<sup>30</sup> Additionally, under Section 6.3.6 of the Settlement Agreement, an additional \$8,897,600  
9 in ICFA funds received by Global Water Resources since December 31, 2008, will not be  
10 imputed or treated as CIAC. In order to understand how Staff came to accept such a massive  
11 reversal of CIAC, it is necessary to briefly review the history of the original imputation.

12 In Decision 71878, the Commission treated all payments received by Global Water  
13 Resources under the various ICFAs as CIAC either against active rate base or as supporting  
14 excess capacity.<sup>31</sup> However, the Commission also directed Global Water Resources, Staff and  
15 other interested stakeholders to conduct a generic investigation and to hold workshops to address  
16 whether ICFAs, if properly segregated and accounted for, would be appropriate for use in  
17 financing the acquisition of troubled water companies and to cover the carrying costs associated  
18 with unused regional infrastructure.<sup>32</sup> As directed in Decision 71878, Staff, Global Water  
19 Resources and other interested stakeholders participated in seven workshops on various topics  
20 from November 2010 to November 2011.<sup>33</sup> A workshop was held on June 24, 2011, to address  
21 ICFAs.<sup>34</sup>

22 On March 19, 2012, Staff issued a Staff Report which addressed the topics covered at the  
23 workshops.<sup>35</sup> In its Staff Report, Staff included the following recommendation:

24 That monies received pursuant to Infrastructure Coordination and Financing  
25 Agreements ("ICFAs") continue to be treated as Contributions in Aid of

26 <sup>30</sup> Global's Post Hearing Brief at 17, lines 1-15.

27 <sup>31</sup> Staff's Initial Brief at 13, lines 15-17.

28 <sup>32</sup> Staff's Initial Brief at 13, lines 17-21.

<sup>33</sup> Staff's Initial Brief at 14, lines 1-2.

<sup>34</sup> Staff's Initial Brief at 14, lines 2-3.

<sup>35</sup> Staff's Initial Brief at 14, lines 3-4.

1 Construction ("CIAC"). This recommendation may be modified as a result of the  
2 pending review of Global's ICFA's by an independent Certified Public Accountant  
3 firm.<sup>36</sup>

4 At the Commission's direction, Staff retained the certified public accounting firm  
5 Ullmann & Company P.C. ("Ullmann") "to review the ICFA's and determine whether the ICFA's  
6 allow for the ICFA funds to be spent on acquisitions of utilities by Global Parent, and to  
7 determine whether the ICFA funds were used, in whole or in part, to fund acquisition payments  
8 and offset acquisition premiums."<sup>37</sup> Ullmann completed its review of the ICFA's and issued a  
9 report in November 2012.<sup>38</sup> In its Initial Brief, Staff articulated its interpretation of the Ullmann  
10 report, stating as follows:

11 The Company asserts that the report demonstrates that Global Parent [*i.e.*, Global  
12 Water Resources] did have its own debt and equity to finance its investment in  
13 plant. Staff also agrees that the report showed that Global Parent had enough  
14 monies to finance its investment in plant without using ICFA fund, except for a  
15 small portion. Whether or not the Company used their own funds however, is not  
16 clear. Thus although Staff and the Company are not in complete agreement as to  
17 what the report demonstrates, both acknowledge that the findings provide support  
18 for de-imputing the CIAC treatment of the ICFA funds in this case.<sup>39</sup>

19 The Ullmann report appears to be the basis for Staff's change of position regarding the  
20 imputation of monies received by Global Water Resources under the ICFA's. Yet, the Ullmann  
21 report appears far from definitive regarding the source of funds used by Global Water Resources  
22 to construct utility plant. For example, Staff acknowledges that it "is not clear" whether Global  
23 Water Resources used its own funds to construct utility plant. Further, Staff admits that "Staff  
24 and the Company are not in complete agreement as to what the report demonstrates...."  
25 Notwithstanding these rather serious uncertainties, Staff takes the position that "the findings  
26 provide support for de-imputing CIAC treatment of the ICFA funds in this case."

27 Without taking a position as to the appropriateness of its actions, the idea that Staff would  
28 reverse course on the imputation of \$58,245,656 of ICFA monies as CIAC following the clear  
findings of Decision 71878 and its own 2012 Staff Report based upon the results of the Ullmann

<sup>36</sup> Staff Report dated March 19, 2012 (Docket W-20445A-09-0077 *et al.*) at 5.

<sup>37</sup> Staff's Initial Brief at 14, lines 7-11 (citing Hearing Exhibit A-32 (Ullmann Report) at 2-7).

<sup>38</sup> Staff's Initial Brief at 14, lines 12-13.

<sup>39</sup> Staff's Initial Brief at 14, lines 13-19 (citations omitted; emphasis added).

1 report, which are less than definitive and without further analysis, is a concern. It is also  
2 surprising that Staff would support the Settlement Agreement given the questions which remain  
3 regarding the source of funds that were used by Global Water Resources to construct utility plant.  
4 Staff states that the Settlement Agreement is “designed to restore Global Parent’s balance sheet  
5 while, at the same time, not burdening the customers of the Global Applicants.”<sup>40</sup> Staff’s  
6 assessment that the restoration of \$58,245,656 to rate base will not burden the rate payers is no  
7 doubt based upon the requirements that Global Water Resources phase-in the de-imputation of  
8 CIAC over an eight-year period and that it defer filing rates cases. Global Water Resources  
9 explains in its Post-Hearing Brief:

10 [T]he settlement agreement provides the benefit of fixing the impaired balance  
11 sheets and improving the financial condition of Global Parent and the Global  
Utilities, all while limiting the rate impact to ratepayers.

12 To achieve these apparently contrary objectives, much of the de-imputation is  
13 focused on plant that is not currently in active rate base and thus not in rates.  
14 Indeed, only 28% of the de-imputation impacts used and useful active rate base in  
15 this case. And the rate impact of the 28% is further reduced by the eight-year  
phase-in. As a further protection, the rate impact of all of the de-imputation for  
the Global Applicants is also subject to separate eight year phase-ins.<sup>41</sup>

16 However, once the de-imputation of \$58,245,656 in CIAC is fully reflected in rate base  
17 and the phase-in periods have been fully instigated, there will no doubt be a very dramatic impact  
18 on rates. It will not be today, but it will certainly come. While this de-imputation of CIAC is  
19 likely unprecedented in Arizona, neither Staff nor RUCO have done analysis to determine the  
20 scope of the future impact on rates resulting from the approval of this massive de-imputation.  
21 Without such analysis, it is simply not possible to conclude that the Settlement Agreement is in  
22 the public interest.

23 Staff and RUCO both focus on the fact that there is no rate increase to customers in the  
24 first year. The real question, however, is what will be the impact on rates once the de-imputation  
25 is fully implemented. We simply do not know the answer to that critical question.

27 <sup>40</sup> Staff’s Initial Brief at 9, lines 18-19.

28 <sup>41</sup> Global’s Post-Hearing Brief at 8-9 (citations and emphasis omitted).

1           **D. A Longer Phase-in of the Rate Increase for Customers of Water Utility of**  
2           **Greater Tonopah is Necessary to Avoid Rate Shock.**

3           In his Direct Testimony in Opposition to Settlement Agreement, Mr. Jellies testified that a  
4           100% increase in rates as proposed for WUGT under the Settlement Agreement will hurt rate  
5           payers directly and the perception of potential purchasers of NWP's properties.<sup>42</sup> Even though  
6           WUGT would phase in the higher rates over three years, this will still have a direct, dramatic and  
7           immediate effect on ratepayers.<sup>43</sup> By comparison, the ratepayers in the Town of Maricopa are  
8           seeing smaller rate increases (by percentage), but the increase are being phased in over eight  
9           years under the Settlement Agreement.<sup>44</sup>

10           Staff's response to the concerns of NWP is that "[i]f the rates were set using a rate of  
11           return, they would be three times higher than what is being proposed in the [Settlement]  
12           Agreement."<sup>45</sup> This will come as small consolation to the residents of Tonopah who face a 96%  
13           rate increase.<sup>46</sup>

14           **II. RESPONSE TO GLOBAL'S POST-HEARING BRIEF.**

15           **A. The Settlement Agreement Fails to Resolve All of the ICFA Issues.**

16           Global Water Resources asserts that "[t]he settlement agreement ... resolves a number of  
17           thorny issues, including the complex and long-standing regulatory issues surrounding ICFAs."<sup>47</sup>  
18           While the Settlement Agreement does resolve some issues associated with the ICFAs, it does not  
19           resolve the issues raised by NWP regarding the unlevel playing field created by the existing CPI  
20           Adjustor nor does it provide adequate safeguards to ensure that landowner fees received by  
21           Global Water Resources in excess of the amounts treated as HUFs under the Settlement  
22           Agreement are available to fund utility plant that is needed to serve the new developments.

23           To view the ICFAs in their proper context, it is important to begin by remembering that  
24           Global Water Resources is the one that created the "complex and long-standing regulatory issues  
25           surrounding ICFAs" by failing to get those agreements approved by the Commission. Global

26           <sup>42</sup> Hearing Exhibit NWP-4 at 9, lines 4-6.

27           <sup>43</sup> Hearing Exhibit NWP-4 at 9, lines 6-8.

28           <sup>44</sup> Hearing Exhibit NWP-4 at 9, lines 8-10.

<sup>45</sup> Staff's Initial Brief at 23, lines 3-4.

<sup>46</sup> Global's Post Hearing Brief at 7, line 9½.

<sup>47</sup> Global's Post Hearing Brief at 1, lines 10-11.

1 Water Resources could have and should have sought prior Commission approval before  
2 implementing such a novel and untested scheme for funding utility acquisitions and plant carrying  
3 costs—a scheme, incidentally, which has been officially rejected in the Settlement Agreement.  
4 However, Global Water Resources chose not to seek Commission approval, as evidenced by the  
5 following exchange between Global witness Fleming and counsel for NWP:

6 Q. [By Mr. Hays] ... Did Global Water Resources get preapproval from this  
7 Commission to use ICFAs as a financing tool or any tool in  
8 general?

9 A. [By Mr. Fleming] Global Water parent did not get preapproval.

10 \* \* \*

11 Q. [By Mr. Hays] Could the utility come to the Commission and ask for  
12 approval of the ICFA?

13 A. [By Mr. Fleming] A utility, I don't know. I assume they could have.

14 Q. [By Mr. Hays] Could Global Parent?

15 A. [By Mr. Fleming] Yes.<sup>48</sup>

16 At the hearing, Global witness Walker discussed an economic principal known as moral  
17 hazard, which he defined as follows:

18 [M]oral hazard is the concept that if people are made immune from risk, they will  
19 take any amount of risk. This is, you know, a large part of what probably led to  
20 the housing crisis and the collapse of the financial system.<sup>49</sup>

21 Mr. Fleming testified at the hearing that “the imputation [applied in Decision 71878] caused a net  
22 loss of \$79 million to Global in 2010, which was a ‘major blow to Global’s consolidated balance  
23 sheet.’”<sup>50</sup> However, any harm to Global’s consolidated balance sheet was brought on solely by  
24 the actions of Global Water Resources, and not by any actions of the Commission, Staff, RUCO,  
25 NWP or any of the other parties to these consolidated rate cases. Thus, in evaluating the  
26 Settlement Agreement, and considering whether approval of the agreement is in the public  
27 interest, the Commission should make its assessment with consideration of moral hazard.

28 <sup>48</sup> Hearing Transcript Vol. I at 151-153.

<sup>49</sup> Hearing Transcript Vol. III at 542-543.

<sup>50</sup> Global’s Post Hearing Brief at 8, lines 5-6 (citations omitted).

1 Global Water Resources argue that SNR and NWP represent only two of the 172 ICFA's,  
2 and that "[t]he other landowners with the other 170 ICFA's will benefit from not having the  
3 contracts they voluntarily negotiated and entered into altered or even voided at the request of  
4 SNR and NWP."<sup>51</sup> These assertions misstate NWP's intent and request in this case. NWP is not  
5 seeking to void any ICFA, but to require recognition in the ICFA's that the Settlement Agreement  
6 fundamentally changes the nature of those agreements. NWP is requesting that the Commission  
7 require, as a condition of approving the Settlement Agreement, that the CPI Adjustor in the  
8 ICFA's be modified so that it does not apply to landowner fees received by Global Water  
9 Resources that are recharacterized as HUFs. It is inconceivable that any developer with and  
10 ICFA would object to such a modification.

11 Global Water Resources asserts that "SNR and NWP were well aware of the CPI  
12 provision when they signed the agreements"<sup>52</sup> This is true, but it completely misses the point. At  
13 the time that NWP signed its ICFA, Staff had not rejected the use of ICFA's by Global Water  
14 Resources as it has under the Settlement Agreement. At the time that NWP signed its ICFA,  
15 there were no HUFs in effect for WUGT and Hassayampa Utility Company ("HUC") as there  
16 will be if the Settlement Agreement is adopted. At the time that NWP signed its ICFA, there was  
17 no recharacterization of landowner fees paid under the ICFA as there will be if the Settlement  
18 Agreement is approved. At the time that NWP signed its ICFA, there was a level playing field  
19 between developers. Each of these changed circumstances require the modification of the ICFA's  
20 to reflect the requirements of the Settlement Agreement.

21 Global Water Resources asserts that "SNR and NWP seek to get out of the contract they  
22 agreed to."<sup>53</sup> This allegation simply misstates the testimony and evidence in this case. NWP  
23 seeks a modification of the ICFA which will mitigate the competitive disadvantage that it now  
24 faces as a result of the Settlement Agreement. NWP also seeks a condition requiring Global  
25 Water Resources to segregate in separate bank accounts all ICFA monies and to provide an  
26

27 <sup>51</sup> Global's Post Hearing Brief at 10, lines 7-10.

28 <sup>52</sup> Global's Post Hearing Brief at 21, line 21.

<sup>53</sup> Global's Post Hearing Brief at 19, line 6.

1 annual report to Utilities Division Staff of the cash flows into and out of such accounts, together  
2 with such other information as Staff may reasonably request.

3 **B. The 96% Rate Increase for WUGT Will Cause Rate Shock Without a Longer**  
4 **Phase-In.**

5 Global Water Resources asserts that “[o]verall, the increases in revenue requirements will  
6 be relatively modest for most customers.”<sup>54</sup> However, this is certainly not the case for the 324  
7 test-year-end customers<sup>55</sup> of WUGT who are hit with a 96.3% increase in the revenue  
8 requirement under the Settlement Agreement.

9 Global Water Resources also asserts that the Settlement Agreement “provides relatively  
10 moderate rate increases for most customers, even at the end of the phase-in periods.”<sup>56</sup> Again,  
11 however, this is not the case for the customers of WUGT. As stated in Staff’s Initial Brief, in  
12 year three of the phase-in, the monthly bill of a 5/8-inch or ¾-inch customer with median usage of  
13 5,000 gallons would increase from the current \$27.58 to \$50.07, and increase of 81.6%.<sup>57</sup> By  
14 way of comparison, the customers of Global Water-Santa Cruz Water Company (“Santa Cruz”)  
15 do much better under the Settlement Agreement, as shown in Staff’s Initial Brief:

16 Santa Cruz has an eight year phase-in of rates due to the proposed restoration of  
17 ICFAs in the Agreement. A 5/8 inch or ¾ inch customer with a median usage of  
18 5,000 gallons currently has a bill of \$31.10. This would remain the same in year  
19 one of the phase-in. In years two through eight, the rates would be phased-in,  
20 with the cumulative effect as follows: 2015 - increase \$1.36 to \$32.46 or 4.4  
21 percent total increase, 2016 - increase \$2.11 to \$33.21 or 6.8 percent total  
22 increase, 2017 - increase \$2.34 to \$33.44 or 7.5 percent total increase, 2018 -  
23 increase \$2.58 to \$33.68 or 8.3 percent total increase, 2019 - increase \$2.81 to  
24 \$33.91 or 9.0 percent total increase, 2020 - increase \$3.05 to \$34.16 or 9.8 percent  
25 total increase, and, finally, by 2021 - increase \$3.07 to \$34.18 or 9.9 percent total  
26 increase.<sup>58</sup>

27 Thus, the monthly bill of a typical Santa Cruz water customer with median usage of 5,000  
28 gallons increases by 9.9% over eight years from \$31.10 to \$34.18, while the monthly bill of a  
typical WUGT customer with the same median usage increases by 81.6% over three years from

26 <sup>54</sup> Global’s Post Hearing Brief at 6, lines 9-10.

27 <sup>55</sup> Hearing Exhibit A-6 (WUGT Rate Application), Schedule C-2.4.

28 <sup>56</sup> Global’s Post Hearing Brief at 6, lines 10-11.

<sup>57</sup> Staff’s Initial Brief at 19, lines 11-16.

<sup>58</sup> Staff’s Initial Brief at 19-20.

1 \$27.58 to \$50.07. Global Water Resources touts the fact that WUGT customers will see “no  
2 increase at all in 2014.”<sup>59</sup> However, a one-year stay of execution for these customers will offer  
3 small comfort.

4 One of the benefits of the SIB mechanism touted by Global Water Resources is that it  
5 protects the ratepayers of Willow Valley Water Company (“Willow Valley”) from large “rate  
6 shock” type rate increases.”<sup>60</sup> Under the Settlement Agreement, the revenue requirement for  
7 Willow Valley increases by 57.3% over the test year revenue requirement,<sup>61</sup> or only about 60% of  
8 the increase in WUGT’s revenue requirement. While Global Water Resources is appropriately  
9 concerned about the possibility of rate shock in the case of Willow Valley, there appears to be an  
10 absence of concern regarding rate shock that will certainly be felt by the customers of WUGT.

11 In his Testimony, Mr. Jellies testified as follows:

12 NWP has an accounting witness who has provided testimony on this point but I  
13 will say that in my experience, a 100% increase in rates hurts both rate payers  
14 directly and the perception of potential purchasers of NWP’s properties. Even  
15 though WUGT would phase in the rates over three years, this will still have a  
16 direct, dramatic and immediate effect on ratepayers. The ratepayers in the Town  
17 of Maricopa are seeing smaller rate increases (by percentage) yet the increase are  
18 being phased in over eight years under the Settlement Agreement. There is no  
19 good reason why the rates of WUGT could not be phased in over a similar time  
20 period.<sup>62</sup>

21 NWP requests that the Commission phase-in the WUGT rate increase over an eight-year  
22 period, as the Settlement Agreement permits for the customers of Santa Cruz and Global Water –  
23 Palo Verde Utilities Company. The increase in revenue requirement attributable to WUGT  
24 represents only about 4.6% of the total increase in revenue requirement under the Settlement  
25 Agreement, yet the proposed rate increase for WUGT customers is by far the largest in these  
26 consolidated rate cases. Stretching the phase-in of the Settlement Agreement rate increase will  
27 have little impact on the bottom line for Global Water Resources but will help mitigate the rate  
28 shock that will surely occur as a result of the proposed rate increase.

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<sup>59</sup> Global’s Post Hearing Brief at 7, lines 20-21.

<sup>60</sup> Global’s Post Hearing Brief at 2-3.

<sup>61</sup> Global’s Post Hearing Brief at 7, line 10.

<sup>62</sup> Hearing Exhibit NWP-4 at 9, lines 4-11.

1     **III.     RESPONSE TO RUCO CLOSING BRIEF.**

2             RUCO devotes the large majority of its Closing Brief to the proposed System  
3     Improvement Benefit Mechanism (“SIB”) for the Willow Valley Water Company and NWP takes  
4     no position on that issue. However, NWP does take issue with RUCO’s assertion that the  
5     Settlement Agreement resolves “all issues concerning ICFAs.”<sup>63</sup> As discussed above, the  
6     Settlement Agreement fails to address the issue of the CPI Adjustor in the ICFAs and the  
7     competitive disadvantage that it creates for developers such as NWP that have entered into  
8     ICFAs. Further, the Settlement Agreement fails to establish appropriate safeguards, as discussed  
9     above, to ensure that landowner fees received by Global Water Resources in excess of the  
10    amounts that are treated as HUFs under the Settlement Agreement are available to fund the utility  
11    plant that is needed to serve the developers’ developments. Thus, NWP disagrees with RUCO’s  
12    assertion that the Settlement Agreement, without additional conditions, is in the public interest.<sup>64</sup>

13    **IV.     CONCLUSION.**

14            For all of the reasons set forth herein, and for the reasons set forth in NWP’s Initial  
15    Closing Brief filed October 18, 2013, approval of the Settlement Agreement is not in the public  
16    interest without additional requirements imposed upon Global Water Resources, its regulated  
17    utility affiliates and its non-regulated affiliates. NWP urges the Commission to impose the  
18    following additional requirements as conditions of approving the Settlement Agreement in any  
19    order issued by the Commission:

- 20            •     Global Water Resources should be prohibited from applying the CPI  
21                    Adjustor to funds received from NWP under its ICFA that are treated as  
                    HUFs (contributions in aid of construction) to WUGT and HUC.
- 22            •     Global Water Resources should be required to segregate and account for  
23                    all funds received under ICFAs for the reasons set forth in the pre-filed  
24                    testimony of Staff witness James Armstrong.
- 25            •     Notwithstanding the language of Section 6.4.4 of the Settlement  
26                    Agreement which provides for a 70%-30% split of future payments  
                    received by Global Water Resources under the ICFAs, the Commission’s  
                    order should make clear that NWP, SNR and all other parties to ICFAs

27            

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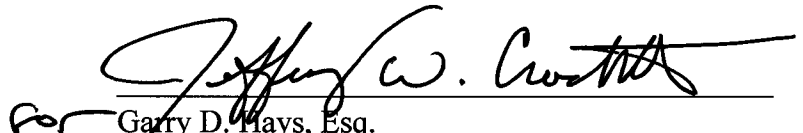
<sup>63</sup> RUCO Closing Brief at 3, line 15½.

28            <sup>64</sup> RUCO Closing Brief at 3, line 5.

1 may fully fund applicable HUFs for the utilities that will provide service  
2 to the properties covered under the ICFA's.

- 3 • Global Water Resources should be required to amend its ICFA's with  
4 NWP and SNR to make clear that monies allocated to WUGT and HUC as  
5 HUFs may be paid directly to WUGT and HUC.
- 6 • Global Water Resources and its non-regulated affiliates must agree to  
7 submit to the jurisdiction of the Commission regarding enforcement of the  
8 terms of the Settlement Agreement and the order approving the Settlement  
9 Agreement, and waive the right to assert that the Commission lacks  
10 jurisdiction over Global Water Resources and its non-regulated affiliates.  
11 Likewise, Global Water Resources must agree that its ICFA's are subject to  
12 the Commission's jurisdiction.
- 13 • Global Water Resources should be required to provide annual reports  
14 certified by an officer allowing for verification of compliance with all  
15 obligations imposed under the Settlement Agreement.
- 16 • Global Water Resources should be required to phase-in the rate increase  
17 for WUGT over eight years instead of the three-year phase-in required  
18 under the Settlement Agreement.

19 RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of October, 2013.

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28  
  
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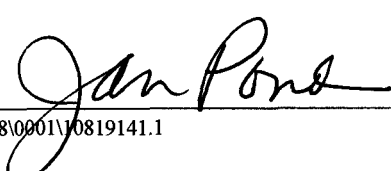
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